

**HIGH COURT OF UTTARANCHAL AT NAINITAL**

Writ Petition No. 1064 of 2003 (MS)

Nayab Ahmad ..... Petitioner

Versus

District Judge, Pithoragarh &  
others ..... Respondents

Sri Sharad Sharma, Advocate for the petitioner.  
Sri Manoj Tiwari, Advocate for the respondents.

Dated:- 1.9.2004

**Hon. Rajesh Tandon J.**

Heard the learned counsel for the parties.

By the present writ petition the petitioner has prayed for a writ of certiorari quashing the order dated 11.7.2003 passed by the District Judge, Pithoragarh.

The respondent no. 2 Bansi Lal instituted a suit against the petitioner for eviction from the shop in question. The respondent no. 2 has stated that he has retired and the shop in question is required for his own use and occupation. The prescribed authority has dismissed the application for eviction. The respondent no.2 has preferred an appeal before the District Judge, Pithoragarh against the order of the Prescribed Authority dated 5.5.2001. The District Judge has allowed the appeal and set aside the order passed by the Prescribed

Authority and remanded the case back to the Prescribed Authority for afresh decision.

Since the appellate authority has remanded the case, I see no reason to interfere in the order passed by the appellate Court. The prescribed authority shall decide the case afresh in accordance with law and shall not be influenced by the findings of the appellate court.

Subject to the aforesaid observation, the writ petition is disposed of. No order as to costs.

**(Rajesh Tandon J.)**

1.9.2004

\*Dhyani